

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

TIMOTHY ARTHUR BERRY,

Plaintiff,

v.

DOUG SMITH,

Defendant.

Case No. 16-cv-10293

Honorable Thomas L. Ludington  
Magistrate Judge Patricia T. Morris

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**ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING  
PLAINTIFF'S COMPLAINT**

On January 28, 2016, Plaintiff Timothy Arthur Berry filed a complaint against Doug Smith, an FBI agent in the Bay City area. In the complaint Berry claims that Smith aided in violating Berry's constitutional rights by not investigating Berry's complaint that Judge Jon Van Allsburg committed a crime against Berry. Berry also applied for permission to proceed *in forma pauperis*. Berry's case was referred to Magistrate Judge Patricia T. Morris for general case management.

On February 3, 2016, Judge Morris issued a report recommending Berry's complaint be dismissed for failing to state a claim on which relief may be granted. *See* Rep. & Rec. 5-7, ECF No. 7 Judge Morris explained that there is no constitutional right to have the FBI conduct an investigation. Thus, Judge Morris concluded, Berry's complaint is meritless.

Although the Magistrate Judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within fourteen days of service of the report, neither Plaintiff nor Defendant filed any objections. The election not to file objections to the Magistrate Judge's report releases the Court from its duty to independently review the record.

*Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation, ECF No. 7, is **ADOPTED**.

It is further **ORDERED** that Plaintiff Timothy Berry's Complaint, ECF No. 1, is **DISMISSED with prejudice**.

s/Thomas L. Ludington  
THOMAS L. LUDINGTON  
United States District Judge

Dated: February 24, 2016

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on February 24, 2016.

s/Michael A. Sian  
MICHAEL A. SIAN, Case Manager